

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF SOUTH DAKOTA

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Courtney Jayne, et al., 4:18-cv-4088-KES

Plaintiff,

-vs-

City of Sioux Falls,

Defendant.

* * * * *

D E P O S I T I O N O F

CRIS MELENDEZ

* * * * *

APPEARANCES: Mr. Philip Sieff
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Minneapolis, Minnesota 55402

Attorney for the Plaintiff;

Mr. James Moore
Ms. Melanie Carpenter
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Attorneys for the Defendant.

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S T I P U L A T I O N

It is hereby stipulated and agreed, by and between the above-named parties through their attorneys of record, whose appearances have been hereinabove noted, that the deposition of CRIS MELENDEZ may be taken at this time and place, that is, at the offices of Woods, Fuller, Shultz & Smith, Sioux Falls, South Dakota, on the 16th day of July, 2019, commencing at the hour of 12:00 p.m.; said deposition taken before Paige K. Frantzen, Court Reporter, a Notary Public within and for the State of South Dakota; said deposition taken for the purpose of discovery or for use at trial or for each of said purposes; and said deposition is taken in accordance with the applicable Rules of Civil Procedure as if taken pursuant to written notice. Objections, except as to the form of the question, are reserved until the time of trial. Insofar as counsel are concerned, the reading and signing of the transcript by the witness are reserved.

* * * * *

CRIS MELENDEZ,

called as a witness, having been first duly sworn,
testified as follows:

Paige K. Frantzen
Paige.Frantzen@gmail.com

1 A Yes.

2 Q Who was with you on that trip?

3 A No one.

4 Q And how much time did you spend at Falls Park in
5 the -- in 2017 when you were there?

6 A It was cold, so a half hour.

7 Q Was there snow on the ground then?

8 A Yes.

9 Q Was the river flowing?

10 A Underneath the ice you could see it, in the Falls
11 portion.

12 Q How did the subject of the trip in March of 2018 come
13 up?

14 A Like I said, we always tried to do something
15 together. And the 14th of March is my son's
16 birthday, so her and I were discussing doing
17 something together at that time and I told her that I
18 thought Sioux Falls Park was really nice and it would
19 be something different and that we could get a
20 pool -- you know, hotel with an indoor pool and just
21 kind of wander around and explore.

22 Q So in March of 2018, who was on the -- who was
23 included in the trip?

24 A It was me, my son Jeremy, my daughter Olivia,
25 Courtney, and her three daughters.

1 Q It could be -- the area could not -- could be outside
2 what is pictured in the photographs.

3 A I don't know for sure where she fell in.

4 Q Okay. Do you know how far away from Maggie Jeremy
5 was at the time she fell in?

6 A No.

7 Q Is that a question that you ever asked him?

8 A No.

9 Q Before these photographs were taken, do you recall
10 any conversation about the foam in the river?

11 A We thought it was snow as we were walking up on it
12 because it was dirty.

13 Q Was -- tell me what you remember about conversation
14 related to that being snow.

15 A There wasn't much conversation. It was more my kids
16 saying, "What is that?" And I said, "I don't know.
17 It looks like a bunch of snow built up." That was --
18 I had no education on the phosphorus creating foam
19 or -- it was the second time I was there in my entire
20 life.

21 Q When do you remember that exchange with the kids?
22 Was it before or after these photographs were taken?

23 A I don't know.

24 Q Did you see any of the -- any of the kids approach
25 the edge of the riverbank to look at the foam?